

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Joseph Sieber, Chairman;
Gerald Yarbrough, Vice Chairman;
Jerald Maddow, Member

FROM: Kathleen Wardell, Executive Secretary
Board of Review

Subject: Minutes of the July 6, 2011
Board of Review Meeting

Date: July 11, 2011

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor and Workforce Development was held on Wednesday, July 6, 2011 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. **The next regular meeting of the Board of Review is scheduled for July 13, 2011 at 9:00 a.m.** at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Mr. Sieber, Chairman
Mr. Maddow, Member
Ms. Wardell, Executive Secretary
Absent: Mr. Yarbrough, Vice Chairman

2. Following a motion by Mr. Maddow and seconded by Mr. Sieber, the minutes of the June 29, 2011 meeting were approved.

3. Old Business

(a) 305,526

Ms. Jackson described this case involving a claimant who was discharged from her job as a social worker after the custodian discovered risqué photographs in her desk. The Appeal Tribunal held the claimant disqualified for benefits for severe misconduct under N.J.S.A. 43:21-5(b). The Board

noted the photographs were in a sealed envelope in the claimant's desk and had been there for several months because the claimant had forgotten about them. While the claimant may have demonstrated poor judgment by having the photographs in her desk, her actions do not rise to the level of severe or even simple misconduct. As a result, the Board voted to reverse the decision of the Appeal Tribunal, holding the claimant not disqualified for benefits under N.J.S.A. 43:21-5(b). Ms. Jackson will prepare the decision.

4. New Business

(a) 265,828

As presented by Ms. Jackson, this case involved a claimant who worked as a seasonal, as needed employee for a golf course. The claimant worked enough weeks and earned sufficient wages to establish a valid claim for unemployment benefits. The Appeal Tribunal held the claim for benefits invalid under N.J.S.A. 43:21-4(e). The Board noted there was no basis for the Appeal Tribunal to hold the claim for benefits invalid. As a result, the Board voted to reverse the decision of the Appeal Tribunal. Ms. Jackson will prepare the decision.

(b) 304,950

As described by Ms. Matos, this case involved a claimant who was discharged from her job as a teacher's assistant after a child was left on the playground in the rain. The Appeal Tribunal held the claimant disqualified for benefits for severe misconduct under N.J.S.A. 43:21-5(b). The Board noted that the record failed to support a conclusion that the claimant was at fault or was in any way responsible for the child being left on the playground. As a result, the Board voted to reverse the decision of the Appeal Tribunal, holding the claimant not disqualified for benefits under N.J.S.A. 43:21-5(b). Ms. Matos will prepare the decision.

There being no further business to transact, a motion was made by Mr. Maddow to adjourn the meeting. Mr. Sieber seconded the motion.

SUBMITTED FOR APPROVAL:

Kathleen Wardell
Executive Secretary

KW:ldv